

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY**

November 18, 2006

**AmeriTel Inn Spectrum
Boise, Idaho**

Chairman Dwayne Sheffler R.Ph. called the meeting to order at 8:30 A.M. In attendance were board members Mike Merrill R.Ph., Richard Jones R.Ph. and Frank Casabonne R.Ph. Also present were Richard Markuson, Executive Director, Fred Collings, Senior Investigator, Dustie Reyna, Investigative Assistant, Jan Atkinson, Senior Compliance Officer and representing the Board as legal counsel, Kent Nelson and Cheri Bush, Deputy Attorney's General.

As a matter of convenience Cheri Bush, Deputy Attorney General requested that the Board add a Consent Agreement to the agenda for the Board's consideration. Frank Casabonne made a motion to add the Consent Agreement from Susan Ellen Goggin DVM to the agenda. Mike Merrill seconded the motion. Motion unanimously carried.

Mike Merrill made a motion to accept all minutes, as written, from Board meetings on 8/19/05, 9/15/05, 10/11/05 and 11/04/05. Richard Jones seconded the motion. Motion unanimously carried.

Regarding citation #1294 issued to Blaine Manor Nursing Home: Frank Casabonne made a motion to fine Blaine Manor \$400, place a letter of reprimand in facility's file and place their registration on probation for three years to assure there are no further shortages of controlled substances. The Board members also stipulated that any further shortages involving controlled substances would result in the removal of all controlled substances from the home's emergency kit for the extent of the probation. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #2584 issued to pharmacy technician Chad Dwyer: Mike Merrill made a motion to fine Mr. Dwyer \$100, place a letter of reprimand in his file and place his registration on probation for two years during which time a late renewal would result in suspension of his technician registration. Richard Jones seconded the motion. Motion unanimously carried.

Regarding citation #2586 issued to pharmacy technician Tara Hepper: Frank Casabonne made a motion to fine Ms. Hepper \$100 and place a letter of reprimand in her file. Richard Jones seconded the motion. Mike Merrill voted no to the motion stating it was not consistent to the previous citation for a technician. Motion carried.

Regarding citation # 2587 issued to pharmacist Brenda Phelan: Mike Merrill made a motion to fine Ms. Phelan \$100 and place a letter of reprimand in her file. Frank Casabonne seconded the motion. Motion unanimously carried.

Mike Merrill made a motion for reconsideration of his motion on citation # 2584 issued to pharmacy technician Chad Dwyer. In the reconsideration, Mr. Merrill requested that Mr. Dwyer's probationary period be excluded in order to make this action consistent with other similar actions. Frank Casabonne seconded the motion. Motion unanimously carried excluding the probationary period on citation # 2584 issued to Chad Dwyer.

Regarding citation #2591 issued to pharmacy technician Elizabeth Catherman: Frank Casabonne made a motion to fine Ms. Catherman \$100 and place a letter of reprimand in her file. Richard Jones seconded the motion. Motion unanimously carried.

Regarding citation #2590 issued to pharmacist Edward Houston: Richard Jones made a motion to fine Mr. Houston \$100 and place a letter of reprimand in his file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #2589 issued to pharmacist Dustin Edwards: Frank Casabonne made a motion to fine Mr. Edwards \$400 and place a letter of reprimand in his file. Richard Jones seconded the motion. Motion unanimously carried. Based on new information presented during the meeting the Board also directed staff to meet with the new PIC of Animal Rx Pharmacy at MWI to discuss the theft of hydrocodone recently reported by MWI.

Regarding citation #2585 issued to pharmacist Tonya Sganzi: Mike Merrill made a motion to fine Ms. Sganzi \$400 and place a letter of reprimand in her file. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding citation #1811 issued to pharmacist Dwayne Sheffler: Chairman Dwayne Sheffler requested that Mike Merrill take over the duties as Chairman during his citation review. Mr. Sheffler expressed concern over the previous inspections and the labeling discussions he had with the inspector regarding the med sets that resulted in the citation. Mr. Sheffler felt that the correct med sets were ordered and in the pharmacy and an effort was made to correct the problem. The inspector, Ms. Knittel stated that there was no evidence that the new med sets were in use and therefore proper labeling continued to be an issue during the follow up inspection. Richard Jones stated that it appeared to be a miscommunication and the situation did not appear to warrant a citation and made a motion to dismiss the citation. Frank Casabonne seconded the motion. Motion unanimously carried and citation # 1811 was dismissed.

Due to the labeling confusion surrounding med sets and similar delivery systems that require labeling by the pharmacist, the Board determined that an official interpretation was necessary to establish the definition of a med set. Based on information presented during the meeting and the discussion that followed, the Board established that in order for a med set container to be correctly labeled the immediate container that medication is dispensed in must be a solid container that is not conducive to separation.

Regarding citation # 1306 issued to veterinary technician Eric Wood; Frank Casabonne made a motion to dismiss the citation due to insufficient evidence. Mr. Casabonne stated that he did not feel that the existing evidence supported the practitioner's claim that he did not order the medication that Big Sky Animal Health distributed to his client. Richard Jones seconded the motion. Motion unanimously carried and citation #1306 was dismissed.

Regarding citation # 1309 issued to pharmacist Lynn Archibald; Richard Jones made a motion to fine Mr. Archibald \$500 and place a letter of reprimand in his file. Mike Merrill seconded the motion. Motion unanimously carried. In order to show consistency, the Board directed staff to review the situation with Mr. Brown and determine if the pharmacy PIC should also receive a citation for not catching his expired license before 9/15/05.

Regarding citation #1308 issued to pharmacy technician Jaqueline Rost: Frank Casabonne made a motion to fine Ms. Rost \$100 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1307 issued to pharmacist Jay Cresto: Frank Casabonne made a motion to fine Mr. Cresto \$100 and place a letter of reprimand in his file. Richard Jones seconded the motion. Motion unanimously carried.

Mike Merrill made a motion for Board reconsideration of citation #1810 and citation #1809 that were in dispute due to confusion regarding the interpretation of Board Rule 252.07. Frank Casabonne seconded the motion for reconsideration. Motion unanimously carried and citations will be reviewed.

Regarding citation #1810 issued to pharmacy technician April Bryant: Following Board reconsideration of the citation Richard Jones made a motion to fine Ms. Bryant \$100 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation # 1809 issued to pharmacist Daniel Markowski: Following Board reconsideration of the citation Mike Merrill made a motion to fine Mr. Markowski \$100 and place a letter of reprimand in his file. Richard Jones seconded the motion. Motion unanimously carried.

In the matter of Susan Ellen Goggin DVM: Board attorney Cheri Bush presented a Consent Agreement for the Board's consideration and recommended approval of Ms. Goggin's stipulation to specific inventory and storage requirements in order to maintain her controlled substances. Frank Casabonne made a motion to accept the agreement as written. Mike Merrill seconded the motion. Motion unanimously carried and the Board shall issue an Order on the Agreement.

Regarding the matter of Jason Jungert and his request for the reinstatement of his pharmacist license: Frank Casabonne made a motion to reinstate Mr. Jungert's pharmacist license effective 12/14/05 and to incorporate the 11/17/05 letter from Riverside Recovery as part of Mr. Jungert's Final Order. Mike Merrill seconded the motion. Motion unanimously carried.

Commencing at 1:30 P.M. the Board held a Show Cause Hearing for pharmacist Evert Darrell Henrichs to allow evidence on the allegations contained in the Complaint to be presented to the Board. Darrell Henrichs was present and represented by attorney Nicholas Bokides. At 3:35 P.M. Mike Merrill made a motion to suspend Mr. Henrichs pharmacist license for six months and place his license of probation for 3 ½ years following reinstatement. In addition, Mr. Henrichs must pay a fine in the amount of \$1,000.00, all investigative costs that are to be determined by the Board investigator and he is not to fill any prescriptions for himself during his probation. Richard Jones seconded the motion. Motion unanimously carried.

Regarding the Stipulation and Order for Charles Fuller P.A.; Frank Casabonne made a motion to accept the Order as written. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the Stipulation and Order for pharmacy technician Connie Crawford; Richard Jones made a motion to accept the Order as written. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding the Voluntary surrender and proposed Order for pharmacy technician Vandy DeLeon in lieu of formal disciplinary action; Mike Merrill made a motion to revoke Ms. DeLeon's pharmacy technician registration. Frank Casabonne seconded the motion. Motion unanimously carried.

Pharmacist Sam Hoagland and President of The Pharmacy Doctors, Inc. appeared before the Board to explain his pending application for a limited service pharmacy license. The corporation was established to provide a network of qualified pharmacists to provide Medication Therapy Management Services (MTMS) for Medicare and Medicaid patients. TPD would also provide MTMS to other patients enrolled in plans on a fee-basis, when appropriate. Mr. Hoagland stated that an NCPDP number issued to pharmacy for insurance billing purposes could not be obtained by TPD without first obtaining a pharmacy license. After further discussion Frank Casabonne recommended that Mr. Markuson and board staff determine whether a pharmacy license was applicable in this situation. Mr. Hoagland was also advised that he could legally operate his business TPD without a limited service pharmacy license as indicated in Section 54-1721(2) Idaho Code.

JoAn Condie, representing ISPA, addressed the issues concerning pharmacy technicians and the proposed legislation and rule changes addressing prescriptions written by out-of-state practitioners and positive ID requirements for pharmacies. Ms. Condie also stated that the association was pursuing certification of technicians but it was a extensive process and would take additional time.

During a review of upcoming legislation and rules Mr. Markuson addressed the following proposed changes and or additions: Amending Section 37-2722, Idaho Code, in order to limit the jurisdictions from which controlled substance prescriptions can be filled by Idaho pharmacists to specifically border states; Amending Section 54-1733 to define the nature of an appropriate prescriber-patient relationship; Changes to rules 463 and 464 to further clarify the requirements for obtaining and documenting positive ID for controlled substances; Changes to rule 188.01 to remove the term "Brand Medically Necessary" which is no longer used by Medicaid. There was additional discussion regarding the fax alert sent out by Mr. Markuson on 11/18/05 directing pharmacies on how they could receive prescriptions for patients residing in residential care and assisted living facilities. As discussed, all oral prescriptions for patients residing in these facilities must come directly from the practitioner or the practitioner's agent to the pharmacy and faxed prescriptions must be signed and come directly from the practitioner.

In closing the board members directed Mr. Markuson and board staff to handle future citations issued to pharmacy technicians and the responsible PIC for name badge violations and failure to register with the following guidelines:

- Pharmacy technicians without name badges - \$100 fine and a letter of reprimand
- Pharmacy technicians failing to register - \$100 fine and a letter of reprimand
- PIC - \$100 fine and letter of reprimand

In addition, all subsequent violations within a three-year period will go to the Board. A list of all violations handled by board staff will be reported at the next scheduled board meeting and become part of the board meeting record.

The next board meeting is scheduled for February 17, 2006.

Richard Jones motioned for the meeting to be adjourned and Mike Merrill seconded the motion. Meeting adjourned at 5:45 P.M.

Minutes from this meeting respectfully submitted by Jan Atkinson.

